

CITY OF EL PASO, TEXAS
DEPARTMENT HEAD'S SUMMARY REQUEST FOR COUNCIL ACTION (RCA)

DEPARTMENT: AIRPORT

AGENDA DATE: February 6, 2007

CONTACT PERSON/PHONE: Patrick T. Abeln, A.A.E. – 780-4724

DISTRICT(S) AFFECTED: 03

SUBJECT:

Resolution authorizing **City Manager** to sign a Lessor's Approval of Assignment of the Industrial Site Lease between the City of El Paso, ("Lessor") and I.G.I.T. Ltd. (Assignor) and Eckenroth Investments, Ltd. ("Assignee").

BACKGROUND / DISCUSSION:

The City of El Paso entered into an Industrial Site Lease on January 1, 1978 with Paul Connington Co. for the property described as Lot 8 Block 7, El Paso International Airport Tracts, Unit 2, consisting of approximately 30,825 sq. ft. The lease term is for forty (40) years expiring May 31, 2018. The Lease was assigned to Lockheed Joint Venture in April, 1982 and subsequently assigned to I.G.I.T., Ltd. by Lessor's Approval of Assignment on February 10, 2004. The office building constructed on the land is sub leased by various small businesses.

The present lease rate was adjusted January 2003 to \$0.115/sq. ft. which equates to \$3,544.92/annum (\$295.41/mo.). In accordance with the Lease, the rent is to be adjusted at each five year lease anniversary to an amount equal to six percent (6%) of fair market value, with a 20% cap. The next rent adjustment will be due January 1, 2008.

ANALYSIS:

Mr. Hellard is selling the improvements to Eckenroth Investments, Ltd. and is requesting Lessor's Approval of Assignment of the underlying ground lease. By this document, the City will approve the assignment of the lease contingent upon I.G.I.T., Ltd. remaining as guarantor of the Lease and Assignee's obligation to adhere to all the terms and conditions of the Lease.

PRIOR COUNCIL ACTION:

On February 10, 2004, Lessor's Approval of Assignment to I.G.I.T. Ltd. from Lockheed Joint Venture.

AMOUNT AND SOURCE OF FUNDING:

There will be no expense to Airport.

BOARD / COMMISSION ACTION:

This request for Lessor's Approval of Assignment was presented and approved by the Airport Board during the January 18, 2007 Board Meeting.

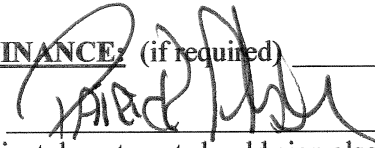
*****REQUIRED AUTHORIZATION*****

LEGAL: (if required)


Raymond L. Telles, Asst. City Attorney

FINANCE: (if required)

OTHER:

Patrick T. Abeln, A. A. E., Director of Aviation 
(Example: if RCA is initiated by Purchasing, client department should sign also)

Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA:

CITY MANAGER: _____

DATE: _____

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RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager be authorized to sign a Lessor's Approval of Assignment by and between the City of El Paso ("Lessor"), I.G.I.T. LTD. ("Assignor") and Eckenroth Investments, Ltd. ("Assignee") for the following described property:

Lot 8, Block 7, El Paso International Airport Tracts, Unit 2,
City of El Paso, El Paso County, Texas.

ADOPTED this the ____ day of _____ 2007.

THE CITY OF EL PASO

ATTEST:

John F. Cook
Mayor

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

Raymond L. Telles
Assistant City Attorney

APPROVED AS TO CONTENT:

Patrick T. Abeln, A. A. E.
Director of Aviation

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CITY CLERK DEPT

STATE OF TEXAS §
 §
COUNTY OF EL PASO §

LESSOR'S APPROVAL OF ASSIGNMENT

The City of El Paso ("Lessor") entered into an Industrial Site Lease with an effective date of June 1, 1978 between the Lessor and Paul J. Connington; as amended by that First Amendment dated June 13, 1978; as assigned pursuant to that Consent to Assignment dated June 27, 1978; as amended by that Second Amendment dated October 3, 1978; as assigned pursuant to that Lessor's Approval of Assignment dated May 11, 1982 to Lockheed Joint Venture dated April 30, 1982; and as then subsequently assigned to I.G.I.T., LTD. pursuant to that Lessor's Approval of Assignment dated February 10, 2004. The initial lease and subsequent amendment and assignment documents (collectively referred to herein as the "Lease") cover the following described leased premises:

Lot 8, Block 7, El Paso International Airport Tracts, Unit 2,
City of El Paso, El Paso County, Texas, being more
particularly described in Exhibit A, attached hereto and made
a part hereof ("Premises").

1. **CONSENT TO ASSIGNMENT.** Lessor hereby approves and consents to the assignment of the Lease, including sale of improvements from I.G.I.T., LTD. ("Assignor") to Eckenroth Investments, Ltd. ("Assignee"), on the condition that Assignee assumes and becomes liable to pay any and all sums owing or becoming due Lessor under terms of the Lease from and after the effective date of the assignment of the Lease to Assignee, and upon the further condition that Assignee agrees to accept and abide by all the terms, covenants, and conditions of the Lease.
2. **PROOF OF INSURANCE AND INDEMNIFICATION.** Assignee has provided a certificate of insurance to evidence compliance with the insurance requirements of the Lease and expressly agrees to be bound by the indemnification provisions contained in the Lease.
3. **GUARANTOR.** Assignor guarantees payment of rent and other charges or fees due to the Lessor and shall remain fully liable for the prompt and complete performance of any and all obligations arising, or to arise, under the Lease.
4. **RATIFICATION OF AGREEMENT.** Except as expressly modified herein, no provision of this consent alters or modifies any of the terms and conditions of the Lease; all other terms and conditions of the Lease shall remain in full force and effect.

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5. **ADDRESS FOR NOTICE.** Notices to Assignee and Assignor shall be sufficient if sent by certified mail, postage prepaid, addressed to:

ASSIGNEE: Eckenroth Investments, Ltd.
11569 Spencer
El Paso, Texas 79936

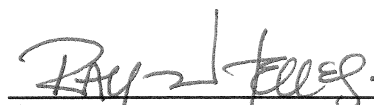
ASSIGNOR: I.G.I.T., LTD.
Attn: John T. Hellard
1535 Hawkins
El Paso, Tx 79925

6. **AUTHORIZED REPRESENTATIVE.** The persons signing this Lessor's Approval of Assignment on behalf of the Assignee and Assignor represent and warrant that they have the authority legally to bind the Assignee or Assignor, respectively, to the provisions of this Lessor's Approval of Assignment.
7. **NON-WAIVER.** The Lessor's Approval of Assignment hereby given by Lessor shall not end the need for Lessor's consent for any future assignments.
8. **EFFECTIVE DATE.** The parties have executed this Lessor's Approval of Assignment hereto this _____ day of _____ 2007.

LESSOR: CITY OF EL PASO

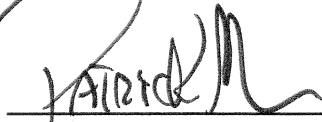
Joyce A. Wilson
City Manager

APPROVED AS TO FORM:



Raymond L. Telles
Assistant City Attorney

APPROVED AS TO CONTENT:



Patrick T. Abeln, A.A.E.
Director of Aviation

(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)


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ATTEST:

Printed Name: _____


ASSIGNOR: I.G.I.T., LTD.


Printed Name: JOHN T. HELLARD
Title: PRESIDENT - I.G.I.T., LTD

ATTEST:

Printed Name: _____

ASSIGNEE: Eckenroth Investments, Ltd.


Printed Name: Loryne Ann Robinson
Title: Owner

LESSOR'S ACKNOWLEDGEMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this ____ day of _____, 2007, by **Joyce A. Wilson** as **City Manager** of the **City of El Paso, Texas**. (Lessor)

My Commission Expires: _____

Notary Public, State of Texas

(ACKNOWLEDGMENTS CONTINUE ON THE FOLLOWING PAGE)

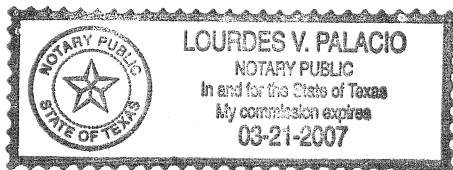
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ASSIGNOR'S ACKNOWLEDGEMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 23RD day of JANUARY, 2007, by John T. Hellard as President of I.G.I.T., LTD. (Assignor)



Lourdes V. Palacio
Notary Public, State of Texas

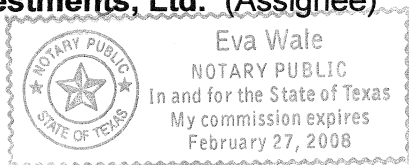
My Commission Expires:

3-21-2007

ASSIGNEE'S ACKNOWLEDGEMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 21 day of January, 2007, by Rodrigo R. Eckenroth as Owner of Eckenroth Investments, Ltd. (Assignee)



Eva Wale
Notary Public, State of Texas

My Commission Expires:

02/27/08

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